

REMARKS

This Amendment is responsive to the Final Office Action dated December 27, 2005, wherein allowable subject matter was identified. Applicant appreciates the Examiner's efforts in conducting a timely and comprehensive examination of the application. Responsive to the Office Action, Applicant is filing herewith a Request for Continued Examination, and has further amended the application to a scope that is commensurate with the issues raised by the Examiner.

Claims 1 – 8 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement for allegedly containing “new matter.” Claims 1 – 3 were rejected under 35 U.S.C. 102(b) as being anticipated by Blachly. Claims 4 and 5 – 8 were indicated as being allowable if rewritten.

Claims 1 and 4 were amended. Claims 1 – 8 remain pending. No new matter has been added. Reconsideration is respectfully requested.

As to the rejections under 35 U.S.C. 112, first paragraph, Applicant disagrees with the Examiner's conclusion that the specification does not provide any support for the “tongue receiving surface being disposed generally perpendicularly to the shaft axis.” Applicant disagrees with the Examiner's conclusion. The enablement requirement of Section 112, first paragraph, does not require that the application contain written words explaining the invention. Rather, the drawings alone may be sufficient. *See, In re Wolfensperger*, 302 F.2d 950 (C.C.P.A. 1962)(drawings used to enable the patent application in accordance with the requirements of Section 112, first paragraph). Applicant submits that FIGS. 1, 3, 4, and 9, clearly depict the tongue receiving structure

(12) disposed generally perpendicular to the shaft (16). While the specification does not specifically reference an axis, Applicant submits that it is common knowledge that a “shaft” has an axis. Notwithstanding, issues relating to the sufficiency of disclosure, Applicant has amended the claims to remove the “axis” reference. Accordingly, it is submitted that the rejections/objections based on 35 U.S.C. 112, first paragraph, have been overcome.

As to the rejections under 35 U.S.C. 102(b), Applicant has amended the claims to more clearly distinguish the present invention from Blachly. More particularly, Applicant has amended claims 1 and 4 to positively recite that shaft (16) is adapted with means for receiving oral medications and dispensing said oral medications below the user's tongue. Support for the amendment may be found throughout the specification. See, page 8, lines 5 – 15, “liquid medicine may be provided to a patient directly to a location below the patient's tongue . . . [through] exit chamber 20.” See also FIG. 9 wherein tongue is restrained by tongue receiving structure 12 such that medicine will flow through the openings in chamber 20 below the tongue. This distinction is considered significant as the effective administration of certain medicines calls for placement of the medicine below the tongue.

U.S. Patent No. 4,270,531, issued to Blachly, discloses an oropharyngeal airway tube and bite block assembly wherein an elongate shaft 10 defines a generally horizontally disposed concave portion, referenced as 16. Blachly specifically teaches away from Applicant's invention by disclosing an airway tube that extends over the patient's tongue. See, Col. 3, lines 52 – 56 (downwardly curved posterior tongue depressor portion 16), and Col. 4, lines 40 – 41 (the posterior portion 16 of the airway

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tube extends over the patient's tongue into the upper throat). Blachly fails to disclose any means for dispensing medication below the tongue as presently claimed by Applicant. Accordingly, the structure disclosed by Blachly is completely different than that disclosed and claimed by Applicant.

In view of the above, Applicant believes that the claims are distinguishable from the teachings of the cited art. Accordingly, the claims are considered in immediate condition for allowance.

This Amendment is considered timely and fully responsive to the issues raised by the Examiner.


Should the Examiner have any questions, comments, or concerns, the undersigned would appreciate a telephone conference in order to expedite this case.

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Date: MARCH 27, 2006

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